

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHAEL KALLANSRUD,

Claimant,

vs.

PRESTAGE FOODS OF IOWA,

Employer,

and

SAFETY NATIONAL CASUALTY
CORP.,Insurance Carrier,
Defendants.

File No. 21005518.01

ORDER FOR NUNC PRO TUNC

On April 4, 2023, Defendants filed a motion for Nunc Pro Tunc. There is no resistance on file. The basis of the motion is that the decision erroneously states that the weekly benefit rate of \$1,864.00 is incorrect, and that according to the rate book for an injury occurring on March 5, 2021, the appropriate weekly compensation rate based on an average weekly wage of \$1,968.03 with a status of married with two exemptions is \$1,219.53.

The phrase, "nunc pro tunc" means "now for then." See: Black's Law Dictionary, page 1218 (Revised 4th Edition 1968). The definition in Black's Law Dictionary further provides: "A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e., with the same effect as if regularly done." Black's at 1218. A nunc pro tunc order "is not for the purpose of correcting judicial thinking, a judicial conclusion, or a mistake of law." Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969). The nunc pro tunc order can be employed to correct obvious errors or to make an order conform to the judge's original intent. Graber v. Dist. Court for Washington Cty., 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06-2074 (Iowa App. November 13, 2008).

Defendant's motion is granted. The arbitration decision Conclusions of Law and Order section shall be amended to accurately reflect that the appropriate benefit rate is \$1,219.53.

THEREFORE IT IS ORDERED, the defendants' application for Order Nunc Pro Tunc is granted.

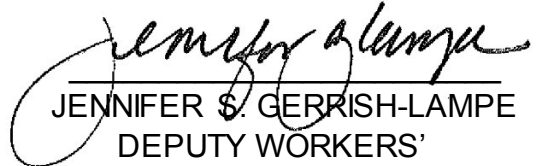
Page 15, paragraph 2 shall read as follow:

Defendants paid the permanent benefits based on gross weekly wages of \$1,928.00 per week for a weekly compensation rate of \$1,198.41. In November 2021, the parties agreed that the average gross weekly wage was \$1,883.13 which would be a compensation rate of \$1,180.09 per week. (DE G:44) However, according to the findings of fact it is determined that the representative gross weekly wage is \$1,968.03 with a compensation rate of \$1,219.53 for a married with two exemptions injured worker.

The order section shall read as follows:

That defendant employer and insurer are to pay unto claimant forty (40) weeks of permanent partial disability benefits at the rate of one thousand two hundred nineteen and 53/100 dollars (\$1,219.53) per week from April 6, 2022.

Signed and filed this 19th day of April, 2023.


JENNIFER S. GERRISH-LAMPE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Randall Schueller (via WCES)

Jennifer Clendenin (via WCES)